

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM A. REGAN,  
Plaintiff,  
v.  
DEPARTMENT OF CORRECTIONS, et al.,  
Defendant.

Case No. C04-5360FDB

**ORDER TO PROVIDE PROOF  
OF SERVICE OR SHOW CAUSE**

After careful review of the file and the parties' briefing, the court hereby ORDERS:

(1) In relevant part, FRCP 4(m) provides:

Time limit for service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or upon its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

The complaint in this matter was submitted on or about June 18, 2004, along with an application to proceed in forma pauperis. The court ultimately denied plaintiff's application to proceed without paying the filing fee, and plaintiff paid the fee on or about January 28, 2005, after appealing the issue of recusal to the Ninth Circuit. At about the same time, plaintiff filed an amended complaint (Doc. 20)

Arguably, plaintiff was required to properly serve defendant with a copy of the original complaint along with a summons and file the required proof of service by not later than October 18, 2004, and plaintiff was require to serve defendants with a copy of the amended complaint at the time that it was filed with the court.

After reviewing the record, the court noted defendants have not filed an answer to the amended

1 complaint as expected. On further review the court finds plaintiff has not filed proof of service of the  
2 original or amended complaint. Accordingly, it appears plaintiff may not have properly served the  
3 complaint in this matter.

4 Plaintiff shall file proof of service or show cause why this matter should not be dismissed for lack of  
5 prosecution **by not later than February 27, 2006.** The Clerk is directed to provide copies of this Order  
6 to plaintiff and counsel of record.

7 DATED this 23<sup>rd</sup> day of January, 2006.

8 /s/ J. Kelley Arnold  
9 J. Kelley Arnold  
10 United States Magistrate Judge

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